

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

VDARE FOUNDATION, INC.,

Plaintiff,

-vs-

LETITIA JAMES, in her official capacity as
Attorney General of the State of New York,

Defendant.

22-cv-1337 (FJS/CFH)

**DECLARATION OF
Yael Fuchs
IN SUPPORT OF
DEFENDANT'S
MOTION TO DISMISS**

Yael Fuchs, a citizen of the United States and a resident of the State of New York, affirms under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am an Assistant Attorney General in the Office of Letitia James, Attorney General of the State of New York, who appears on behalf of the People of the State of New York in this special proceeding. I serve as a Co-Section Chief of the Enforcement Section of the Charities Bureau.

2. I submit this declaration in support of the Office of the Attorney General's motion to dismiss the action in the above-captioned case.

3. I am familiar with the facts and circumstances set forth in this affirmation, which are based upon my personal knowledge and information contained in the files of the Office of the Attorney General ("OAG").

4. As set forth in greater detail in the accompanying Memorandum of Law, the Attorney General is vested with expansive oversight authority of not-for-profit entities, their representations to donors and potential donors, and their use of charitable assets under the New

York Not-for-Profit Corporation Law, the Estates, Powers and Trusts Law and the Executive Law.

5. As a charity operating and soliciting in New York, VDARE is required to file annually a CHAR500 Registration Form. The CHAR500 must be signed by two officers and asks for self-reporting regarding certain basic information, including the organization's contact information, the number and identity of board members, and information relating to fundraising.

6. The CHAR 500 also requires that organizations file and certify a copy of their annual IRS Form 990. According to the IRS, the Form 990 "is the IRS' primary tool for gathering information about tax-exempt organizations, educating organizations about tax law requirements and promoting compliance. Organizations also use the Form 990 to share information with the public about their programs." <https://www.irs.gov/charities-non-profits/form-990-resources-and-tools> (last visited December 14, 2022).

7. As of the date of this Affirmation, VDARE has not filed its 2020 or 2021 CHAR500 Forms, which would include the IRS Form 990 as an attachment, and is delinquent in its required annual registration with the Charities Bureau.

8. A true and correct copy of the petition filed by the Attorney General on the docket of *People of the State of New York v. VDARE*, Index No. 453196/20022, Dkt. No. 1 (Sup. Ct. N.Y. Cnty.) is attached as **Exhibit A**.

9. A true and correct copy of VDARE's most recent available IRS Form 990, from 2020, is attached as **Exhibit B**.

10. A true and correct copy of VDARE's 2019 IRS Form 990 is attached as **Exhibit C**.

11. A true and correct copy of VDARE's 2018 IRS Form 990 is attached as **Exhibit D**.

12. A true and correct copy of an affirmation by Andrew J. Frisch, counsel for VDARE, filed on the docket of *People of the State of New York v. VDARE*, Index No. 453196/20022, Dkt. No. 37 (Sup. Ct. N.Y. Cnty.) is attached as **Exhibit E**.

13. A true and correct copy of a deed between VDARE Foundation and Berkeley Castle Foundation, Inc., filed with the Morgan County, West Virginia, Register of Deeds is attached as **Exhibit F**.

14. A true and correct copy of a deed between VDARE Foundation and BBB, LLC, filed with the Morgan County, West Virginia, Register of Deeds is attached as **Exhibit G**.

15. A true and correct copy of the certificate of incorporation issued July 21, 2020, by the West Virginia Secretary of State to Berkeley Castle Foundation, Inc., is attached as **Exhibit H**.

16. A true and correct copy of the certificate of incorporation issued July 21, 2020, by the West Virginia Secretary of State to BBB, LLC, is attached as **Exhibit I**.

17. A true and correct copy of a lease filed by Andrew J. Frisch, counsel for VDARE, on the docket of *People of the State of New York v. VDARE*, Index No. 453196/20022, Dkt. No. 45 (Sup. Ct. N.Y. Cnty.) is attached as **Exhibit J**. The lease appears to be between BBB, LLC, and Lydia Brimelow, and she signed the document as both landlord and tenant.

18. A true and correct copy of a subpoena served on VDARE by the Attorney General is attached as **Exhibit K**. This document is incorporated by reference throughout the complaint in this action, including in its Prayer for Relief. Compl. ¶¶ 22–25, 32, 42, 56, Prayer for Relief (i), (iv).

19. A true and correct copy of a document entitled “April 2020 Coordinated Inauthentic Behavior Report” filed by VDARE’s counsel in the proceeding *VDARE Foundation, Inc. v. Facebook, Inc.*, 21-cv-3933-ALC, Dkt. No. 5-1 (S.D.N.Y.), is attached as **Exhibit L**. This document is incorporated by reference into the complaint in this action. *See* Compl. ¶¶ 16, 17.

20. A true and correct copy of a subpoena served on Meta Platforms and a subpoena served on Facebook Payments by the Attorney General is attached as **Exhibit M**. This document is incorporated by reference into the complaint in this action. *See* Compl. ¶¶ 16, 18, 31.

21. A true and correct copy of a letter sent by Frederick Kelly to Catherine Suvari on July 20, 2022, is attached as **Exhibit N**. This document is incorporated by reference into the complaint in this action. *See* Compl. ¶ 24.

22. A true and correct copy of an email sent by Catherine Suvari to Frederick Kelly on July 27, 2022, is attached as **Exhibit O**. This document is incorporated by reference into the complaint in this action. *See* Compl. ¶ 24.

23. A true and correct copy of a letter sent by Andrew Frisch to Yael Fuchs on September 19, 2022, is attached as **Exhibit P**. This document is incorporated by reference into the complaint in this action. *See* Compl. ¶ 25.

24. A true and correct copy of an email sent by Catherine Suvari to Andrew Frisch on September 30, 2022, is attached as **Exhibit Q**. This document is incorporated by reference into the complaint in this action. *See* Compl. ¶ 27.

25. A true and correct copy of a letter sent by Andrew Frisch to Yael Fuchs on November 21, 2022, is attached as **Exhibit R**. This document is incorporated by reference into the complaint in this action. *See* Compl. ¶ 32.

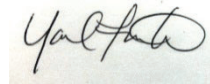
26. A true and correct copy of a letter sent by Andrew Frisch to Yael Fuchs on November 28, 2022, is attached as **Exhibit S**. *See* Compl. ¶ 32.

27. A true and correct copy of a letter sent by Catherine Suvari to Andrew Frisch on December 2, 2022, is attached as **Exhibit T**. This document is incorporated by reference into the complaint in this action. *See* Compl. ¶ 32.

Dated: New York, New York
January 18, 2023

LETITIA JAMES
Attorney General of the State of New York

By:

A handwritten signature in black ink, appearing to read 'Yael Fuchs', is written over a light-colored rectangular background.

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